



NATIONAL FUTURES ASSOCIATION

March 25, 2010

**Via Hand-Delivery**

The Honorable James M. Peck  
United States Bankruptcy Court  
Southern District of New York  
One Bowling Green  
New York, New York 10004

Re: Lehman Brothers Holdings Inc., et al., – Case No. 08-13555

Dear Judge Peck:

National Futures Association ("NFA") respectfully submits this letter in support of CME Group, Inc.'s ("CME") request to maintain the confidentiality of certain information in the above referenced matter. Since 1982, NFA has been the industry wide self-regulatory organization for the U.S. futures industry. NFA regulates every firm or individual who conducts futures trading business with public customers. Our approximately 3,750 Members include futures commission merchants ("FCMs"), introducing brokers ("IBs"), commodity pool operators ("CPOs") and commodity trading advisors ("CTAs"). We also regulate approximately 53,000 registered account executives who work for our Members. NFA is first and foremost a customer protection organization, and as an independent regulatory organization we have no ties to any specific marketplace. As a customer protection organization, NFA has a significant interest in both the financial integrity of market participants and the fair and efficient operation of the futures markets.

NFA understands that the Examiner appointed for Lehman Brothers Holdings Inc. and its affiliated debtors ("LBI") in the above referenced matter is seeking to make public information from three documents that CME Group, Inc. ("CME") provided to him pursuant to a Confidentiality Order. CME has made a request that these documents and the information they contain continue to remain confidential. NFA understands that CME is specifically concerned about maintaining the confidentiality of the names of the participants in an emergency auction for the exchange-traded futures and options contracts held in LBI's proprietary accounts.

NFA is unaware of the identity of these auction participants but we certainly acknowledge that it is possible at least some of the participants are NFA



The Honorable James M. Peck

March 25, 2010

Members.<sup>1</sup> NFA strongly concurs with the CME that revealing the identity of the auction participants could have serious negative effects on the participants and the futures markets as a whole.

Persons trading in the futures markets expect and require anonymity for their trading. Anonymity generally applies to all market participant transactional information, including the identity of those submitting bids and offers. If competitors are aware of a particular person's trading strategy or position in the market, then the person could be at a vast disadvantage when trying to enter or exit positions, and properly manage its financial risks in an efficient, well-regulated market. Given the likely size and complexity of LBI's positions—that may still be carried by the winning bidder(s) today—the anonymity imbedded in the futures markets is paramount to managing these positions' risks.

Additionally, it is imperative that a futures exchange have the ability to take appropriate emergency action when an exchange member fails to reduce its positions as ordered and, thereby, places the financial integrity of the exchange's other members and clearinghouse in jeopardy. Exchanges must be able to conduct emergency auctions in order to fairly and swiftly take action to prevent disruption to the market and protect the financial integrity of other market participants. Otherwise, turmoil in one firm can spread to the entire futures marketplace. If auction participants are concerned that their identity may be revealed, they may not choose to participate in any necessary future auctions because their prior bidding strategies are now known to other bidders and market participants. NFA strongly encourages this court not to take any action that could potentially chill the willingness of potential bidders to participate in future emergency auctions, which given the probable volatile markets in which they occur may already attract a limited number of bidders.

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<sup>1</sup> As noted above, NFA's membership includes all firms that conduct futures business with the public and, therefore, includes large futures brokerage firms that would have presumptively had an interest in obtaining the accounts.



The Honorable James M. Peck

March 25, 2010

For these reasons, NFA respectfully urges the court to approve CME's request to maintain at least the confidentiality of the LBI auction participants' identities.

Very truly yours,

A handwritten signature in black ink, which appears to read "Daniel J. Roth", is written over the typed name.

Daniel J. Roth  
President and Chief Executive Officer

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